



Virginia
Regulatory
Town Hall

Proposed Regulation Agency Background Document

Agency Name:	18
VAC Chapter Number:	130
Regulation Title:	Real Estate Appraiser Board Rules and Regulations
Action Title:	Amending
Date:	08/06/01

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

Summary

Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The proposal incorporates changes to criteria set forth by the Appraiser Qualifications Board and standards set by the Appraisal Standards Board of the Appraisal Foundation, permits renewal on an inactive status, and makes clarifying changes.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

Section 54.1-2013 of the Code of Virginia states that the Board "may do all things necessary and convenient for carrying into effect the provisions of this chapter and all things required or expected of a state appraiser certifying and licensing agency under Title 11 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. § 3301 et seq.)" (FIRREA). FIRREA was passed by Congress in 1989 as a result of the savings and loan crisis and requires the state licensing of real estate appraisers. FIRREA created the Appraisal Subcommittee which monitors and reviews the practices, procedures, activities, and organizational structure of the Appraisal Foundation. The Appraisal Foundation consists of the Appraiser Qualifications Board (AQB) and the Appraisal Standards Board (ASB). The AQB sets minimum qualifications all states must use in licensing appraisers. The ASB promulgates the Uniform Standards of Professional Appraisal Practice (USPAP) which are incorporated into the Board's regulations. AQB Qualifications Criteria and USPAP can be found at www.appraisalfoundation.org.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

The purpose of the proposal is to further protect consumers, primarily financial institutions, from making unsound loan decisions by insuring competency, including continuing competency, of all licensed real estate appraisers. The proposal incorporates changes made by the federal regulating bodies, to permit renewal on an inactive status, and to make clarifying changes.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.

Clarify language contained in 18 VAC 130-20-30.4 and 18 VAC 130-20-180.K.2 regarding criminal convictions by adding "A certified copy of a final order, decree or case decision by a court with the lawful authority to issue such order decree or case decision shall be admissible as prima facie evidence of such conviction."

Move the language contained in 18 VAC 130-20-40.3 to 18 VAC 130-20-30 which will make the requirement applicable to all applicants, not just reciprocal applicants. This provision was in place when Virginia applicants were required to take a rules and regulation portion of the examination and reciprocal applicants were not. Currently, no applicants are required to take a rules and regulation examination.

Amend qualifications for temporary licensure provisions to: specify that a specific appraisal assignment may include multiple properties; delete language regarding substantially equivalent requirements in other jurisdictions; delete reference to disciplinary actions in other jurisdictions; delete the age requirement; and specify that more than one temporary license may be issued per year. All of these changes were recommended by the Appraisal Subcommittee.

In Part III, Renewal of License, add language permitting an individual to renew a license on inactive status. This would permit the licensee to retain the license without meeting the continuing education requirements and to activate the license at a future time. Currently, licensees who are not currently practicing take the continuing education to renew their license, which is a significant financial burden, or let the license expire and reapply, meeting all current entry requirements.

Make the following changes based on changes in AQB criteria:

- Require USPAP courses to be taught by instructors certified by the Appraiser Board effective January 1, 2003 (18 VAC 130-20-70 and 18 VAC 130-20-220).
- Require trainees who remain in the classification in excess of two years to complete continuing education in the third and successive years (18 VAC 130-20-110).
- Delete the continuing education requirement contained in 18 VAC 130-20-110 (requires 3 of the 28 hours to be a Board approved course on recent developments in federal, state and local real estate appraisal law and regulation and the Uniform Standards of Professional Appraisal Practice) and replace it with a 7-hour requirement for a USPAP update course.
- Replace 18 VAC 130-20-180.H.3 regarding record keeping requirement for supervising appraisers with "The appraiser trainee shall be entitled to obtain copies of appraisal reports he or she prepared. The supervising appraiser shall keep copies of appraisal reports for a period of at least five years or at least two years after final disposition of any judicial proceedings in which testimony was given, whichever period expires last."
- Make distance learning course criteria currently applicable only to prelicense courses applicable to continuing education courses. See 18 VAC 130-20-230.

Permit courses approved by the Appraiser Qualifications Board to meet Board requirements without further review. 18 VAC 130-20-200 currently requires that AQB approved courses be submitted for approval and review like all other courses.

In Part IV, Standards, change all references to a specific section of the Uniform Standards of Professional Appraisal Practice to a general reference to insure that all provisions relevant to a specific appraisal assignment apply.

Issues

Please provide a statement identifying the issues associated with the proposed regulatory action. The term "issues" means: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

The advantage to the public and the Commonwealth resulting from the proposed regulatory changes is to further protect consumers, primarily financial institutions, from making unsound loan decisions by insuring competency, including continuing competency, of all licensed real estate appraisers.

Fiscal Impact

Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.

It is not anticipated that the proposed regulatory changes will have a fiscal impact on individuals, business, localities, or other entities. The cost of implementation is limited to the printing and distribution of the final regulations which will be paid for from current fiscal year budgets with no added burden to agency resources.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.

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Alternatives

Please describe the specific alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

Failure to adopt these changes will result in noncompliance with the federal guidelines set forth by the AQB and ASB. Failure to adopt other changes will result in regulations not being as clear as possible and increased noncompliance.

The Department will consider comments received regarding any proposed alternatives.

Public Comment

Please summarize all public comment received during the NOIRA comment period and provide the agency response.

One comment was received which agreed with the purpose of the regulatory review as set forth in the Notice of Intended Regulatory Action Agency Background Document.

Clarity of the Regulation

Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

The purpose of many of the changes is to improve clarity in the regulations. The agency believes these changes will achieve clarity.

Periodic Review

Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.

The Real Estate Appraiser Board will enter into the regulatory review process three years following the date of the final regulations in accordance with Executive Order No. 25. The review will be conducted to determine if the regulations should be continued, amended, or terminated, including a description of specific and measurable goals the regulations are intended to achieve.

Family Impact Statement

Please provide an analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

It is anticipated that the proposed regulatory changes will have no impact on families.